

McGREGOR W. SCOTT
United States Attorney
Eastern District of California

KIMBERLY GAAB
Assistant U.S. Attorney
2500 Tulare Street
Suite 4400
Fresno, California 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

MATTHEW J. MCKEOWN
Acting Assistant Attorney General
United States Department of Justice
Environment & Natural Resources Division

CHARLES R. SHOCKEY, Attorney
D.C. Bar #914879
United States Department of Justice
Environment and Natural Resources Division
501 "I" Street, Suite 9-700
Sacramento, CA 95814-2322
Telephone: (916) 930-2203
Facsimile: (916) 930-2210
Email: charles.shockey@usdoj.gov

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

FRIENDS OF YOSEMITE VALLEY,)
et al.,)
)
Plaintiffs,)
)
v.)
)
DIRK KEMPTHORNE, in his)
official capacity as Secretary of)
the Interior, et al.,)
)
Defendants.)

Case No. CV-F-00-6191 AWI DLB

DECLARATION OF JEFFREY
D. HARSHA IN SUPPORT OF
DEFENDANTS' MOTION FOR
STAY PENDING APPEAL

DATE: February 26, 2007
TIME: 1:30 p.m.
PLACE: Courtroom 2
JUDGE: Hon. Anthony W. Ishii

I, Jeffrey D. Harsha, declare as follows:

1. I am employed by the National Park Service (NPS) at Yosemite National Park (YNP)
where I have served as a Civil Engineering Technician and Project Manager for nine years. I

1 have worked with the utility infrastructure in Yosemite Valley for 12 years. During this time, I
2 have been involved with the maintenance, planning, design and construction of the utility
3 systems in Yosemite National Park and am familiar with the physical condition and flow
4 capacity of the sewer systems in Yosemite Valley.

5 2. For five years, YNP has worked diligently and steadily towards achieving a
6 redesigned and reconstructed sewer system that will eliminate sewer spills as a result of
7 condition defects and/or flow problems. A planned and methodical approach has been
8 undertaken that requires ongoing and consistent effort to complete. Court ordered delays of any
9 time will threaten the ability of YNP to comply with the State Cleanup and Abatement Order and
10 could result in harm to the visiting public by exposing them to spills of raw sewage, disruption of
11 sewer services as a result of emergency repairs, and possible contamination of surface waters.
12 The concerns are not hypothetical, but reflect the experience of actual spills that have occurred
13 over the past several years (See Exhibit A). Delays in the implementation will also result in the
14 continued contamination of ground water by allowing sewage to migrate from defective sewer
15 lines to the soils surrounding the pipes. The Park could also be subjected to significant monetary
16 fines from the State of California for non-compliance with the Cleanup and Abatement Order.
17 The following paragraphs summarize the important facets of the utilities improvements and
18 underscore the need to build on the projects' progress to date.

19 3. **Yosemite Valley Sanitary Sewer Capital Improvement Plan (CIP):** Due to the
20 deteriorating condition of the Valley's sewer system, on August 2, 2000, the State of California
21 issued Yosemite National Park a *Cleanup and Abatement Order (CAO) Number 5-00-70*
22 mandating that NPS correct the leaking and failing sewage collection system. In response to the
23 CAO, the NPS prepared a CIP to identify deficiencies and necessary corrective actions for the
24 sewer system to "abate discharges of untreated wastewater."¹

25 4. The CIP concluded that approximately one-half of the sewer system should be
26

27 ¹ Concurrent with the CIP, the NPS prepared the Integrated Utilities Master Plan (IUMP) to
28 identify alternatives for utility routing so that utilities could be removed from meadows and
sensitive resource areas (such as within the Merced River corridor), while also rectifying system
deficiencies identified in the CIP.

1 rehabilitated due to the poor existing condition. Pipelines were physically inspected internally
2 using closed circuit television (CCTV) cameras. Pipeline repairs were categorized and
3 prioritized based on the physical condition and hydraulic capacity² of the pipelines; this is
4 essentially a pipeline's ability to move the wastewater to the treatment plant. In the CIP, pipeline
5 repair categories were prioritized as emergency, immediate, intermediate, and long term.
6 Combined data from these processes determined what needed to be repaired and provided
7 guidance on the necessary timing to achieve those repairs. When pipe segments were identified
8 with severe condition defects and/or severe hydraulic capacity problems, they were rated as
9 needing either emergency or immediate repair or replacement.

10 5. In October 2004, the Court allowed the park to move forward with a limited series of
11 repairs that fell into the emergency and immediate categories. These repairs consisted of repairs
12 identified in Phase 1 of the East Yosemite Valley Utilities Plan EA (see page II-6 and II-7 of the
13 EA) with the addition of two elements from Phase 3 of the Integrated Utilities Master Plan,
14 namely the West Yosemite Village Utility Corridor's "C" and "D" sewer lines. This group of
15 repairs was referred to as "Option 1" and was described in Exhibit 1 to the Fourth Tollefson
16 Declaration, dated September 2, 2004.

17 6. The Option 1 repair work is nearly complete. However, several elements of Option 1
18 are unfinished. One element not yet complete is the construction of the Yosemite Village Lift
19 Station. YNP expects to complete the lift station work in April 2007. Yosemite Village Lift
20 station is critical to the functionality of Option 1 because it eliminates the need to make repairs to
21 approximately 3000 linear feet of pipe in meadows and ethnographically sensitive areas adjacent
22 to Yosemite Creek. It also provides backup storage capacity in the event of mechanical failure at
23 Yosemite Creek Lift Station, farther downstream, thus preventing spills in meadows. Work is
24 also not yet complete on the "C" and "D" lines that are located southwest of the Yosemite
25 Village housing area and which connect into the new 10" sewer line that runs along Northside
26 Drive and empties into the new Yosemite Village Lift Station.

27
28 ² Hydraulic capacity is calculated based on the diameter, slope, type of pipe and the amount of
flow in those pipes.

1 7. If Option 1 work is not allowed to proceed to completion, great harm could continue
2 to the park's natural and cultural resources. Contamination of ground water will continue by
3 allowing sewage to migrate from defective sewer lines to the soils surrounding the pipes.
4 Sensitive ethnographic sites will ultimately be destroyed from emergency repairs that will
5 undoubtedly occur due to the poor condition of the sewer pipes in these areas. The Park could
6 also be subjected to significant monetary fines from the State of California for non-compliance
7 with the Cleanup and Abatement Order.

8 8. As depicted on Exhibit B to the Fifth Peterson Declaration, even when YNP
9 completes the work in Option 1, many "emergency" and "immediate" category repairs will
10 remain. The CAO is still in effect and YNP is thus presented with the dilemma of a) doing
11 nothing and potentially violating the CAO, b) completing repairs in-place in accordance with the
12 CIP, which would entail extensive and disruptive work in sensitive meadow and riparian areas,
13 or c) if given approval to do so, minimizing work in sensitive resource areas by implementing
14 the repairs in the manner described in Phases 2 and 3 of the IUMP. The benefits of choice (c) as
15 compared to choice (b) are described below.

16 **9. Phase 2 of the CIP:** Phase 2 of the CIP focuses on the remaining emergency,
17 immediate, intermediate, and long term repairs to pipelines and manholes that do not meet the
18 physical condition requirements per today's standards. Phase 2 of the CIP also provides for a
19 second round of CCTV inspections to determine if borderline condition defects have deteriorated
20 further and to locate any new defects. Any new or exacerbated deficiencies will be repaired
21 under CIP Phase 2. However, all work under the CIP would occur in-place. A majority of the
22 remaining repairs in CIP Phase 2 would require extensive excavations in Ahwahnee and Cook's
23 Meadows, areas adjacent to and on the banks of the Merced River, in wetlands areas, across
24 Yosemite Creek, and through ethnographically sensitive areas.

25 **10. Integrated Utilities Master Plan:** The IUMP was developed to comprehensively
26 determine methods to minimize future damage to the natural and cultural resources of Yosemite
27 Valley while providing a sewer system that meets today's standards. The IUMP identified how
28 existing utilities could be combined into integrated corridors and relocated to roads, trails and

1 other previously disturbed areas. It provided a plan for the removal or abandonment of utilities
2 from sensitive resource areas on completion of the relocation projects. Rehabilitation of the
3 wastewater collection system is a key component of the IUMP. The IUMP was divided into
4 three major phases primarily based on geographic areas to achieve a fully integrated utility
5 system network. As discussed in Paragraphs 5-6 above, Phase 1 of the IUMP is nearly complete.

6 11. Phases 2 and 3 of the IUMP would allow compliance with the CAO but in a far more
7 environmentally beneficial manner than the CIP because the IUMP largely eliminates the need to
8 excavate and repair or replace sewer lines in sensitive meadows and riparian areas.

9 Approximately 70% of the remaining condition related repairs in the immediate and intermediate
10 categories of the CIP Phase 2 can be eliminated by the implementation of the Integrated Utilities
11 Master Plan Phases 2 and 3. The 30% that remain will be repaired in-place in accordance with
12 the CIP because these segments are not located in sensitive meadow or riparian areas.

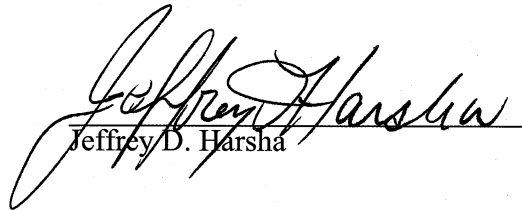
13 12. It is imperative that the NPS be allowed to proceed with the critical sewer system
14 repairs that remain to be done. Of the repairs that remain, there are 12 segments in the
15 “emergency” category. These emergency repair segments have been purposely monitored by
16 NPS as an attempt to minimize potential spills from these segments while the NPS awaited
17 approval to complete this work. Structural and physical deficiencies exist in these pipelines, as
18 well as in others categorized for immediate repair. They all must be repaired to prevent
19 additional blockages, sewage spills and further degradation of the pipelines.

20 13. Any delays in the implementation of the needed repairs will also result in the
21 continued contamination of ground waters by allowing sewage to migrate from defective sewer
22 lines to the soils surrounding the pipes and could lead to harm to the visiting public by
23 potentially exposing them to raw sewage spills in public areas.

24 14. It is my opinion that the most responsible and sustainable choice for moving forward
25 with these necessary repairs is the approach set forth in Phases 2 and 3 of the IUMP. This
26 approach will allow the Park to comply with the State imposed Cleanup and Abatement Order,
27 provide a mechanism to remove deteriorated utilities from sensitive meadows and riparian areas
28 and provide a structurally sound utility network that will serve the visiting public for many years

1 to come in the most economical and least environmentally disruptive manner possible.
2 Extensive excavations in the Ahwahnee and Cook's Meadows, areas adjacent to and on the
3 banks of the Merced River, in wetlands areas, across Yosemite Creek, and through
4 ethnographically sensitive areas will be eliminated if the NPS is allowed to implement the
5 needed repairs in accordance with the IUMP.

6 I declare under penalty of perjury that the foregoing is true and correct. Executed on
7 January 24, 2007, at Mariposa, California

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11 Jeffrey D. Harsha
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